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EXAMINER

TRAN, THUY VAN

ART UNIT

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3652

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Please find below and/or attached an Office communication concerning this application or proceeding.



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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

**MAILED** Paper No. 15

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**GROUP 3600**

Application Number: 09/507,379

Filing Date: February 18, 2000

Appellant(s): Mitch Chance

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Joseph L. Johnson

For Appellant

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**EXAMINER'S ANSWER**

This is in response to the appeal brief filed March 26, 2003.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct. However, the amendment after final was not entered because newly added limitations would require further search and consideration.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

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**(7) *Grouping of Claims***

The rejection of claims 1-8 and 9-16, respectively, stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

**(8) *Claims Appealed***

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) *Prior Art of Record***

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

2,139,597	Martin	12-1938
4,724,875	Baldwin et al.	2-1988
3,536,161	Clarke	10-1970
4,076,216	Nussbaum	2-1978
2,624,546	Haumerson	1-1953
2,576,298 A1	French document	7-1986
2,003,116 A	United Kingdom document	3-1979

**(10) *Grounds of Rejection***

The following ground(s) of rejection are applicable to the appealed claims:

Claims 8 and 16 are rejected under 35 U.S.C. 112, first paragraph. This rejection is set forth in prior Office Action, Paper No. 9. This rejection is hereby withdrawn.

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Claims 8 and 16 are rejected under 35 U.S.C. 112, second paragraph. This rejection is set forth in prior Office Action, Paper No. 9.

Claims 1, 2, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Martin 2,139,597. This rejection is set forth in prior Office Action, Paper No. 9.

Claims 1-4, 8-11 and 16 (as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over French 2,576,298 in view of GB 2,003,116 A. This rejection is set forth in prior Office Action, Paper No. 9. Note, the rejection of claims 1-4, 8-11 and 16 over French in view of Thompson 2,216,058 has been withdrawn.

Claims 5 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin 2,139,597 in view of Baldwin et al. 4,724,875. This rejection is set forth in prior Office Action, Paper No. 9.

Claims 5 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR '298 in view of GB 2003116 A (GB '116) as applied to claims 2 and 9 above, and further in view of Baldwin et al. 4,724,875. This rejection is set forth in prior Office Action, Paper No. 9.

Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin 2,139,597 in view of Clarke 3,536,161. This rejection is set forth in prior Office Action, Paper No. 9.

Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR '298 in view of GB 2003116 A (GB '116) as applied to claims 2 and 9 above, and further in view of Clarke 3,536,161. This rejection is set forth in prior Office Action, Paper No. 9.

Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin 2,139,597 in view of Nussbaum 4,076,216. This rejection is set forth in prior Office Action, Paper No. 9.

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Claims 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over FR '298 in view of GB 2003116 A (GB '116) as applied to claims 2 and 9 above, and further in view of Nussbaum 4,076,216. This rejection is set forth in prior Office Action, Paper No. 9.

Claims 8 and 16 (as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin 2,139,579 in view Haumerson 2,624,546. This rejection is set forth in prior Office Action, Paper No. 9.

**(11) Response to Argument**

**Note,** appellant's arguments with respect to rejection under 35 U.S.C. § 112, first paragraph have been considered but are moot since the rejection is hereby withdrawn.

In regard to the rejection under 35 U.S.C. § 112, second paragraph, appellant argues that in light of the amended specification, it is clear that language of claims 8 and 16 in question are directed to the end block of the cross member, not the switch. Therefore, the movement of the cross members stop when they contact the switch which has already been secured in place. Then, it is suggested that appellant recites those limitations into the claims in order to overcome the indefiniteness.

In response to appellant's argument that the reference Martin 2,139,597 fails to show certain features of appellant's invention, it is noted that the features upon which appellant relies (i.e., the end blocks are attached to the ends of the cross members (frame bars)) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

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Appellant argues that the Martin reference '597 doesn't show an end block at each end of the cross member, wherein the end block includes at least one pulley attached thereto. As broadly claimed, Martin shows in Figure 1 an end block (3) at each end of the cross members 4, wherein the end block includes at least one pulley (12) attached thereto. In addition, Figure 5 of the present application clearly shows the pulley is not attached to the end blocks, but near the end of the cross bar (26,28).

With regard to claim 9, Appellant argues that nothing within the '597 reference suggests at least one cables is maintained within the U-shaped column. As broadly claimed, the cable 11 on the right hand side in Figure 2 is maintained (may not be fully maintained) within the U-shaped column as the ramps are at lowest position. Appellant further stated that because the pulleys attached to the end blocks, the cables are held within the columns until they are routed by the pulleys underneath the ramps. Figure 5 of the present application clearly shows the pulley attached near the end of the cross bar (26,28), not to the end blocks.

**Note**, appellant's arguments with respect to Thompson 2,216,058 have been considered but are moot since the rejections based on Thompson '058 reference is hereby withdrawn.

In response to appellant's arguments in issues **A, B, C, D, E, and H of Rejection Under 35 U.S.C. § 103** that each of the references French 2,576,298 and Martin '597 separately fails to show certain features of appellant's invention, it is noted that the features upon which appellant relies (i.e., the end blocks are attached to the ends of the cross members) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

It is noted that claims 9-16 do not recite the "end blocks".

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In response to appellant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized a cap for each of the cables of FR '298 vehicle lift system as shown by GB '116 in order to replace cables quicker.

Appellant further states in issue **A** that the positioning of the cable within the column, as taught by Appellant is to eliminate non-vertical forces imparted on the column of the vehicle lift. FR '298 reference clearly shown such features in Figure 1, especially Figure 2.

Appellant argues that Baldwin et al. '875 does not show a drip tray, but rather an oil pan. First, there is no structural differences between the two. Secondly, at some point the oil will drip into the pan. The teaching was stated in column 5, lines 1-12.

In response to appellant's argument in issues **B and C** that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have employed a drip tray for the vehicle

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lift of Martin reference as taught by Baldwin et al reference in order to provide more convenient for oil change services.

In response to appellant's argument in issues **D and E** that the references fail to show certain features of appellant's invention, it is noted that the features upon which appellant relies (i.e., casters mounted adjacent the four columns which allow the lift to be rolled about when a vehicle is elevated on the lift) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to appellant's argument that the cover of the Nussbaum '216 reference is not a flexible slotted dust cover, column 4, lines 16-17, discloses "The strip 13 is threaded through the respective slits 12". Thus, the strip 13 can be interpreted as flexible and it is used to protect against the accumulation of dirt.

In response to appellant's argument in issues **F and G** that the references fail to show certain features of appellant's invention, it is noted that the features upon which appellant relies (i.e., Appellant's slotted dust cover... allows a user to access the interior of each U-shaped column without removal) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to appellant's argument in issue **H** that the teaching of Haumerson '546 reference is exactly the opposite of Appellant, who teaches a shut off switch in at least one of the column which will shut off the device when the lift is at its preferred elevation, Haumerson '546 clearly shows such feature in column 12, line 52-59 as pointed out by Appellant. Its preferred elevation is the lowest elevation.

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Appellant's arguments on page 15 have been separately addressed above.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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June 13, 2003

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